Calendar No. 463

97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-324

SERVICES INDUSTRIES DEVELOPMENT ACT

MARCH 22 (legislative day, FEBRUARY 22), 1982.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1233]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1233) to establish a program in the Department of Commerce to promote United States service industries, enhance their competitiveness, and for other purposes, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

PURPOSE OF BILL

The bill, as reported, would authorize the Secretary of Commerce to establish a service industries development program within the Department of Commerce.

BACKGROUND OF NEEDS

The service sector (industries such as transportation, communications, advertising, construction, design and engineering, finance, insurance, entertainment, tourism, and investment) now comprises approximately two-thirds of our gross national product and accounts for three-fourths of total employment. For 1980, the service sector provided the United States with a $34 million international trade surplus.

However, despite these impressive facts, our economic planners continue to stress manufacturing over services in their policy considerations. Whether this occurs due to a traditional bias, or because the service sector is healthier than manufacturing, it should not continue. Over the past several years, trade in services has shown a troublesome lack of expansion. If we are to maintain our competitive edge we need to devote more time and resources to the service sector.

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The Service Industries Development Act would elevate the status of the sector within the Federal trade and economic planning establishment. This is something we have already waited too long to do, and the Committee is glad to see the recent increase in Congressional attention being paid to services.

Legislative history

S. 1233 was introduced on May 20, 1981, by Senators Inouye and Pressler. Hearings were held by the Subcommittee on Business, Trade, and Tourism on October 20 and 21, 1981. The measure was ordered reported by the full Commerce Committee, with amendments, on February 11, 1981.

Summary of major provisions

Section 2 of the bill, "Findings," has the effect of providing Congressional recognition of the substance and importance of the service sector.

Section 3, "Purposes," commits the Federal Government, and the Commerce Department in particular, to provide greater assistance to the development and expansion of the service sector. Section 3 also commits the Federal Government to the objective of free world trade and reciprocal rights for U.S. nationals.

Section 5 authorizes the Secretary of Commerce to establish a service industries development program within the Commerce Department. The specifics of this program are to be aimed at providing the types of assistance required to maximize the benefits of the service sector to the American economy.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., March 12, 1982.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 1233, the Service Industries Development Act, as ordered reported by the Senate Committee on Commerce, Science, and Transportation, February 11, 1982.

S. 1233 authorizes the Secretary of Commerce to establish a service industries development program which would provide statistical and policy analysis to assist U.S. service industries in increasing exports.

The Department of Commerce, through the International Trade Administration, performs most of the functions specified in Section 5 of S. 1233. It is possible that one provision, which requires the collection of statistical information on the domestic service industries, could

require additional resources. The bill does not specify the extent of the data collection effort, and thus no precise cost estimate is possible. However, the costs are not expected to be substantial, and are likely to be less than $1 million per year.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation:

1. No additional businesses or individuals would be subject to regulation.

2. There will be no economic impact on individuals, consumers or businesses.

3. There will be no impact on personal privacy.

4. There may be additional paperwork requirements imposed upon certain federal agencies since the bill gives the Commerce Department the authority to compile certain data currently being collected by other federal agencies. However, no new data collection programs are anticipated.

AGENCY COMMENTS

The comments of the Commerce Department, the State Department, and the U.S. Trade Representative have been included in the hearing record. All were supportive of the goals of S. 1233, and no objections were raised to the specifics of the legislation.

SECTION-BY-SECTION ANALYSIS

Section 2—Findings

Seven of ten Americans are employed in the service sector.

U.S. economic policy does not adequately focus on services.

Services, including investments, account for 30 percent of total trade and provided a $34 million trade surplus in 1980.

Service industries need Federal assistance in maintaining their international competitive advantage.

Section 3—Declaration of purpose

Governmental analysis of service problems and development of service policies must be improved.

The Department of Commerce shall have lead responsibility within the executive branch for increasing the competitiveness of service industries.

The Federal Government should devote additional resources toward implementation of the act.

The Federal Government should provide free and fair trade in services worldwide.

Section 4—Definitions

Section 5—Establishment of program

The bill authorizes the Secretary of Commerce to establish a service industries development program to:

Assist U.S. service industries in increasing exports.

Develop and analyze data in service industries and export markets.

Analyze domestic Federal policies affecting service industries and recommend beneficial changes.

Document trade impediments imposed by foreign countries.

Support the U.S. Trade Representative in trade negotiations.

Provide pertinent statistical data on the service sector to state and local governments and industry groups.

Section 6—Authorization

S. 1233 provides such sums as may be necessary.

CHANGES IN EXISTING LAW

The bill would make no changes in existing law.

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Calendar No. 465

97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-326

NATIONAL TRANSPORTATION SAFETY BOARD

MARCH 24 (legislative day, FEBRUARY 22), 1982.—Ordered to be printed

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, submitted the following

REPORT

[To accompany S. 1936]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1936) to require members of the National Transportation Safety Board to be chosen from individuals with expertise in the fields of accident reconstruction, safety engineering, transportation safety, or transportation regulation, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill do pass.

PURPOSE

The bill, as reported, would require members of the National Transportation Safety Board (NTSB) to be chosen from individuals with expertise in the fields of accident reconstruction, safety engineering, transportation safety, or transportation regulation. The Committee also adopted two amendments to the bill. The first would specify provisions regarding the release of data from cockpit voice recorders and the second would reauthorize the war risk insurance program.

BACKGROUND AND SUMMARY

The NTSB was made an independent Federal Agency by statute in 1974. Its duties and responsibilities include the investigation and determination of probable cause of transportation and pipeline accidents, the conduct of special studies and special investigations relating to transportation safety, review and evaluation of operations and performance of other agencies with regard to their impact on transportation safety, the formulation of recommendations to prevent accidents or minimize resulting harm, and the review on appeal of decisions of

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the Secretary of Transportation pursuant to the Federal Aviation Act and of the Commandant of the Coast Guard with respect to certificates and licenses.

S. 1936 was introduced by Senator Cannon last year. It has been cosponsored by the majority of members of this Committee. This legislation would require that persons nominated to be members of the NTSB be technically qualified to hold that position. Present law states that two members of the Board must be so qualified. Therefore adoption of this bill would mean that future nominees for all five positions on the Board would have to possess background qualifications. It is the intent of the Committee that this bill not affect any existing members of the NTSB.

The bill represents a restatement of a position taken by the Senate when the Independent Safety Board Act was initially considered by the Congress. At that time, because of a difference between the House passed bill and the Senate version, the final legislation required only two members of the Board to be technically qualified. Since that time, concerns have been raised about the background and expertise of nominees to the Board.

It should be noted that the Board has no regulatory authority. It relies solely on its reputation for excellence in accident investigations and its ability to persuade others to accept its safety recommendations. It is the Committee's hope that the requirements imposed by S. 1936 will serve to ensure the quality and independence of the NTSB so that it can continue to meet its important mission.

CVR Amendment.—During markup, the Committee adopted an amendment to S. 1936 offered by Senator Cannon which would allow the Board 60 days before transcripts of an airplane's cockpit voice recorder (CVR) must be released to the public after an accident. Under the present law, the CVR is subject to a Freedom of Information (FOI) request as soon as it is transcribed by the Board. The amendment's 60-day maximum exemption from FOI requests is necessary to allow the Board the time to analyze all data available, and thereafter release to the public both the CVR transcript and the data relevant to interpreting that transcript. It is the Committee's belief that such a procedure is warranted because serious misconceptions about an accident's cause and a crew's fault or lack thereof can be created by assumptions based solely on a CVR transcript.

The amendment specifically authorizes the Board's current practice of editing transcripts, but requires the public release of all transcriptions relevant to the accident or incident within 60 days or at the Board's public hearing, whichever is sooner.

In the unusual event that the CVR is not recovered immediately after the crash, the intent of the language is to provide the Board 60 days after the recovery of the CVR before release. Additionally, the amendment would not affect the Board's current practices of (a) sharing CVR information with parties to the investigation or (b) returning the CVR tapes (original and copies) to their owner, the airline.

The amendment was supported by the NTSB, the Air Line Pilots Association, and all the aviation industry groups who have voiced an opinion on this matter.

War Risk Insurance Amendment.—The Committee also adopted an amendment which would reauthorize the war risk insurance program administered by the Department of Transportation (DOT). War risk insurance is an emergency contingency program to ensure commercial air carriers in the event commercial war risk insurance becomes unavailable because of war or similar events. Commercial aviation insurance is unavailable in a limited number of extraordinarily high risk environments which cannot be fully anticipated or specified. Commercial insurance underwriters consider these high risk environments either outside the scope of coverage they offer or incapable of actuarial analysis.

For example, during the closing days of the Vietnam war, commercial insurance underwriters determined that serious deterioration in the security environment in Vietnam required them to raise premium rates to prohibitive levels for Vietnam services.

Since air carriers cannot, or will not, operate without insurance coverage, these potential gaps in commercial insurance during high risk situations could preclude performance of air services required to further U.S. foreign policy or national security interests. Therefore, the Federal Aviation Act authorizes the Secretary of Transportation to provide aviation insurance coverage in these limited circumstances. That provision expires on September 30, 1982.

Government war risk insurance is issued through premium policies. The government insurance works much the same as civil insurance: each airline and the Federal Aviation Administration (FAA) agree on what coverage is needed and, based on the risk involved, the DOT sets a cost for the premiums and for coverage of the aircraft and its personnel. Before issuing the insurance, the Secretary of Transportation must determine that commercial insurance is either not available, or is priced prohibitively high. Second, the President must determine that continuation of U.S. airline service is necessary to carry out the foreign policy interests of the United States. This program has traditionally made money for the Treasury. DOT has a trust fund of $19,960,000 in Treasury bills to cover war risk liabilities. Interest on the T-bills is about $2 million a year, and the program's annual cost is approximately $70,000 for staff and support.

The amendment would simply strike the current expiration date of 1982 and insert in lieu thereof 1987. This legislation is in accordance with the administration's recommendations on the subject.

LEGISLATIVE HISTORY

S. 1936 was introduced in December of 1981. In February of this year the Committee invited written comments on the bill, which was then marked up Wednesday, March 10, 1982.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., March 18, 1982.

Hon. BOB PACKWOOD,
Chairman, Committee on Commerce, Science and Transportation, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 1936, a bill to require members of the National Transportation Safety Board (NTSB) to be chosen from individuals with expertise in the fields of accident reconstruction, safety engineering, transportation safety, or transportation regulation, as ordered reported by the Senate Committee on Commerce, Science and Transportation, March 15, 1982.

The bill requires that prospective members of the NTSB be technically qualified to hold the position. In addition, the bill allows the NTSB sixty days before transcripts of an airplane's cockpit voice recorder must be released after an accident. These provisions will result in no additional costs to the federal government.

Further, the bill extends for five additional years the federal government's aviation war risk insurance program. This program provides aviation insurance coverage in a limited number of high risk environments for which commercial coverage is unavailable. In the absence of a major loss covered by this program, the aviation war risk insurance fund is expected to generate net receipts of approximately $2 million a year for the next five years, primarily from interest earned by the investment of accumulated funds in U.S. securities.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

Section 2

Provides that not withstanding any other provision of law, the Board must withhold from public disclosure cockpit voice recordings and transcriptions that are associated with accidents or incidents investigated by the Board. The section further provides that portions of a transcript of such oral communications which the Board deems relevant and pertinent to the accident or incident shall be made available to the public by the Board at the time of the Board's public hearing or 60 days following the accident, whichever comes sooner. The section also clarifies that nothing in the provision is intended to restrict the Board from referring to cockpit voice recorder information in making safety recommendations.

Section 3

Amends section 1312 of the Federal Aviation Act of 1958 by striking "1982" and inserting in lieu thereof "1987." This has the effect of continuing the authorization for the war risk insurance program until September 30, 1987.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

INDEPENDENT SAFETY BOARD ACT OF 1974

Section 303 of that Act. (49 U.S.C. 1902(b))

NATIONAL TRANSPORTATION SAFETY BOARD

SEC. 303. (a) * * *

(b) ORGANIZATION.—(1) The Board shall consist of five members, including a Chairman. Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate. No more than three members of the Board shall be of the same political party. [At any given time, no less than two members of the Board shall be individuals who have been appointed in the field of accident reconstruction, safety engineering, or transportation safety.] *The President shall appoint individuals to be members of the Board upon the basis of technical qualification, professional standing, and demonstrated knowledge in the fields of accident reconstruction, safety engineering, human factors, transportation safety, or transportation regulation.*

(2) * * *

(3) * * *

(4) * * *

(5) * * *

(c) * * *

Section 306 of that Act. (49 U.S.C. 1905)

PUBLIC ACCESS TO INFORMATION

SEC. 306. (a) GENERAL.—Copies of any communication, document, investigation, or other report, or information received or sent by the Board, or any member or employee of the Board, shall be made available to the public upon identifiable request, and at reasonable cost, unless such information may not be publicly released pursuant to subsection (b) *or* (*c*) of this section. Nothing contained in this section shall be deemed to require the release of any information described by subsection (b) of section 552 of title 5, United States Code, or which is otherwise protected by law from disclosure to the public.

(b) * * *

(*c*) *Cockpit Voice Recorder.—Notwithstanding any other provision of law, the Board shall withhold from public disclosure cockpit voice recorder recordings and transcriptions, in whole or in part, of oral communications by and between flight crew members and ground stations, that are associated with accidents on incidents investigated by the Board: Provided, That portions of a transcription of such*

oral communications which the Board deems relevant and pertinent to the accident or incident shall be made available to the public by the Board at the time of the Board's public hearing, and in no event later than 60 days following the accident or incidents: And provided further, That nothing in this section shall restrict the Board at any time from referring to cockpit voice recorder information in making safety recommendations.

FEDERAL AVIATION ACT OF 1958

Section 1312 of that Act (49 U.S.C. 1542)

TERMINATION OF TITLE

SEC. 1312. The authority of the Secretary to provide insurance and reinsurance under this title shall expire at the termination of September 30, [1982] *1987*.

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